IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8014 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G S R T CORPN - Petitioner(s)

Versus

BAGHABHAI PRAVATBHAI KAVTHIYA - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

MR PJ KANABAR for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 19/07/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and order dated 28th October, 1999 passed by the Labour Court, Junagadh in Reference [L.C.G.] No. 76 of 1995 whereby the Labour Court has directed the petitioner Corporation to reinstate the respondent with continuity in service along with 50% back wages.

2. The short facts of the case are that the respondent was working as a Conductor with the petitioner Corporation. While on the respondent was on duty, the bus was checked by the checking squad of the petitioner Corporation and certain irregularities in collection of the fares was found. Therefore, charge sheet was issued and departmental inquiry was held against the respondent. Since the charges levelled against the respondent was proved, he was dismissed from the service w.e.f. 25th January, 1994.

2.1. Feeling aggrieved by the said order the respondent preferred an appeal before the First Appellate Authority which also came to be dismissed. Being aggrieved by the said order, the respondent raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after appreciating the materials produced before it, passed the impugned award. Hence, this petition.

3. I have heard the learned counsel for the parties and have perused the materials produced on record. As stated by the learned counsel for the petitioner that the

respondent has already been reinstated in service, the only question which is now required to be considered is with regard to back wages only.

4. However, the Labour Court while granting 50% back wages has not given any cogent reasons. Moreover in view of the principle laid down by the Apex Court that “No Work No Pay”, grant of back wages was not justified. Thus, the impugned award qua the direction of back wages is required to be quashed and set aside.

5. In the result, the petition is partly allowed. The order dated 28th October, 1999 passed by the Labour Court, Junagadh in Reference [L.C.G.] No. 76 of 1995 qua the direction of back wages is quashed and set aside. The rest of the award is confirmed. The petitioner shall grant all the benefits to the respondent from the date of publication of the award till the payment is realized and the difference of salary within a period of three months from the date of receipt of writ of this Court. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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